

Response to FCC Notice of Inquiry in the Matter of The Effect of Foreign Mobile Termination Rates on U.S. Customers

This is a general commentary on the state of the mobile market in New Zealand and the current mobile termination investigation being undertaken by the Commerce Commission. It responds to some of the points raised in the FCC Notice 04-247, including updating information contained on page B-5 of Appendix B: National Regulatory Authority Action in Other Countries.

In New Zealand there are two mobile telephone networks (Telecom and Vodafone) of a similar size. These mobile networks typically charge fixed telephone network operators a similar mobile termination rate to the reciprocal termination rate they charge each other, although it is possible that different fixed network operators are charged different termination rates. Both mobile operators offer calling plans that offer a substantial discount for on-net calls compared to off-net calls.

The fixed and cellular to fixed telephone network operators generally charge the same rate for fixed-to-mobile calls to both mobile networks, although some recently introduced call plans by the incumbent operator (Telecom) do have a different rate for calling each mobile network.

As at 30 September 2004, mobile penetration in New Zealand was around 77 percent. The call minutes per customer appear to be relatively low, with Telecom's mobile customers, for example, making only an average of 70 minutes of calls per month .

Mobile termination rates in New Zealand were around NZ 28 cents per minute for the year ended June 2004.

The Commerce Commission is currently conducting an investigation under the Telecommunications Act 2001 into whether mobile termination rates should be regulated in order to promote competition in telecommunications markets for the long term benefit of end-users of telecommunications services within New Zealand. The investigation was initiated because the Commission received complaints that the lack of competition in the mobile termination market was resulting in unreasonably high charges for fixed-to-mobile calls in New Zealand.

On 18 October 2004, the Commission released a draft report on mobile termination which recommended that the termination of voice calls on a non-3G cellular mobile telephone network be regulated. This report is available on the Commission's website ([www.comcom.govt.nz](http://www.comcom.govt.nz)).

The Commission found that mobile termination rates were substantially above the Commission's preliminary estimate of the underlying cost of providing the termination service (16 cpm). The Commission concluded in its draft report that the regulation of mobile termination rates would result in significant long-term benefits to end-users.

The Commission has received submissions and cross submissions on its draft report from interested parties, and will hold a conference to

discuss these submissions on 23-25 February 2005. The Commission expects to deliver its final report on its investigation into regulation of mobile termination to the Minister of Communications in the second quarter of 2005. The Minister of Communications is expected to make a decision on whether to accept, reject or request the Commission to reconsider, its recommendations shortly thereafter. Notably, the Telecommunications Act 2001 provides for a two-step process whereby the Commission makes a recommendation as to whether it considers regulation of a relevant service is desirable and the Minister then decides whether to accept this decision. However, the Minister cannot regulate a service under the Act unless it is on the recommendation of the Commission.

AT&T have made a submission to the Commission on issues relating to termination of international call traffic in New Zealand. All submissions received are published on the Commission's website.